



WESTERN AUSTRALIA  
LEGAL PRACTITIONERS COMPLAINTS COMMITTEE



ANNUAL REPORT 2006/2007

## INDEX

### A. Chairman's Report

### B. Report from the Law Complaints Officer

### C. The Committee

Role

Organisational Structure

Staff

Meetings

Significant Issues and Developments

### D. The Complaints

Informal Enquiries or Complaints

Written Complaints:-

i) the number of complaints

ii) the complainants

iii) the types of complaints

iv) the practitioners

- *type of employment*

- *area of practice*

- *years in practice and age*

- *the total number*

### E. The Investigation of Complaints

The investigation process

Written complaints resolved

Complaints considered by the Committee:-

i) Applications to the State Administrative Tribunal

ii) Summary Professional Disciplinary Jurisdiction

iii) Determinations not to refer to the Tribunal or deal with summarily

iv) Outstanding complaints

### F. Tribunal and Court Proceedings

State Administrative Tribunal

Reports to the Full Court

Appeals

### G. Information Statements

Freedom of Information

Public Interest Disclosure

**ANNUAL REPORT**  
**OF THE LEGAL PRACTITIONERS COMPLAINTS COMMITTEE**  
**FOR THE YEAR ENDED 30 JUNE 2007**

**A. Chairman's Report**

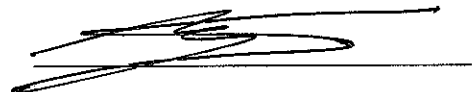
It has been another busy and challenging year for the Committee.

Earlier this year the Committee, like other stakeholders, made submissions on the draft Legal Profession Bill 2007. Under the new legislation the Committee continues to be the regulatory authority in Western Australia for dealing with complaints against legal practitioners. The Bill changes both the criteria by which conduct is assessed and the procedure which will apply in relation to the investigation of complaints and other conduct issues. The criteria for conduct concerns under the new Bill will be "*unsatisfactory professional conduct*" and "*professional misconduct*", in line with the relevant legislation in other States. The Committee is concerned to ensure that its investigatory powers, which have worked well under the previous legislation, are adequate under the current legislation so that conduct issues can be dealt with as thoroughly as possible. The Committee is also concerned to retain its jurisdiction in relation to conduct matters such as substantial irregularities in trust accounts (for example, deficiencies) as these are properly disciplinary matters. The Bill permits uplift fees for the first time in this State. It also has comprehensive costs disclosure requirements, which were previously dealt with in this State as a Professional Conduct Rule. The Bill reinstates a complainants right of appeal from decisions of the Committee, which the Committee has been concerned to note had previously been removed from earlier legislation by the Legal Practice Act 2003.

The Legal Profession Bill 2007 has been introduced into Parliament and was passed by the Lower House on 20 November 2007. The challenge in the forthcoming year will be to implement the changes in the Bill, and to work with other stakeholders so that this occurs as seamlessly and comprehensively as possible.

I would like to thank the Deputy Chairperson, Mr Ken Martin QC and other Committee members for their hard work in managing a considerable workload during the year.

Finally, I thank the Law Complaints Officer and her staff for their considerable assistance to the Committee during the year.



C L Zelestis QC  
Chairperson  
December 2007

## **B. Report from the Law Complaints Officer**

I am pleased to report that there has been a reduction in the number of complaints received by my office this year (440, compared with 502 last year). There has, however, been an increase in conduct enquiries commenced by the Committee in the absence of a complaint being received (66 compared with 43 last year), which reflects the Committee's commitment to a pro active approach in respect of possible conduct concerns. There appears overall to be an increase in the more complex complaints, which require significant staff resources to investigate properly. The office's resources were also called upon during the year to undertake urgent investigations into possible trust defalcations by a country practitioner, which investigations were successful in securing the remaining trust funds pending further enquiries by the Police.

I am also pleased to report that a backlog of current disciplinary proceedings has been resolved and current proceedings are now at a more manageable level. As at 30 June 2005 there were some 67 active Applications before the State Administrative Tribunal. This had reduced to 38 active Applications on foot by 30 June 2006. At the end of this reporting period this number has reduced to only 13 such Applications. This reduction has been brought about by the timely handling of Applications by the State Administrative Tribunal and the success of its mediation and other processes.

With the move towards a national legal profession, reflected in the current Legal Profession Bill 2006 which is currently before Parliament, we will be working with the regulatory authorities of other States towards greater uniformity of approach in handling complaints. We will also be working closely with the Legal Practice Board on the implementation of the National Model Bill so that the functions of each office in relation to matters such as the regulation of trust accounts and the audit of incorporated practices are dealt with in a collaborative and comprehensive way.

During the forthcoming year the primary focus, in addition to our usual functions, will be on setting up systems and training staff so that the changes effected under the Legal Profession Bill can be implemented in a timely and effective way.

I would like to thank all the staff within my office for their considerable efforts this year, their good humour and their team approach to dealing with sometimes difficult and complex conduct issues. I would also like to take this opportunity to remember Peter Jordan, a much valued senior legal officer within my office, who sadly passed away in October 2007 and whose intellect and humour are greatly missed by all.

Diane Howell  
Law Complaints Officer  
December 2007

## C. The Committee

### ROLE

The Committee was first established as a statutory authority in 1993. It is currently under the Legal Practice Act 2003 (*the Act*), which came into effect on 1 January 2004, replacing the Legal Practitioners Act 1893 (*the old Act*).

The Committee's functions under Section 164 of the Act are:

- (a) to supervise the conduct of legal practitioners and the practice of the law;
- (b) to receive and enquire into complaints from the Attorney General, the Legal Practice Board ("the Board"), the Law Society of Western Australia, any practitioner or any other person who has a direct personal interest in the matters alleged in the complaint;
- (c) to investigate of its own volition, whether the Committee has received a complaint or not, any conduct on the part of a practitioner or matters relating to legal practice for the purpose of determining whether it may constitute unsatisfactory conduct;
- (d) where appropriate, to conciliate complaints;
- (e) if the practitioner consents, to exercise its summary professional disciplinary jurisdiction;
- (f) to commence disciplinary proceedings against practitioners before the State Administrative Tribunal ("SAT") or related proceedings before the Supreme Court of Western Australia;
- (g) to supervise and direct the functions of the Law Complaints Officer; and
- (h) to make recommendations in respect of the Act insofar as they affect the functions of the Committee.

The Committee's functions are similar to those which applied under the old Act, except that the purpose of enquiring into complaints and other conduct issues is to determine whether a practitioner's conduct may constitute "*unsatisfactory conduct*", rather than whether conduct may constitute unprofessional or illegal conduct or neglect or undue delay in the course of the practice of the law, as was the case under Section 25 of the old Act.

Unsatisfactory conduct is defined in Section 3 of the Act to include:

- (a) unprofessional conduct;
- (b) illegal conduct;

- (c) neglect or undue delay in the course of legal practice;
- (d) a contravention of the Act, the regulations or the rules; and
- (e) conduct occurring in connection with legal practice that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent legal practitioner.

The substantive law as at the date of the conduct in question governs whether or not a practitioner is in breach of his professional obligations – the provisions of the Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 (WA) and Sections 36 and 37 of the Interpretation Act refer. Hence, the old Act applies to conduct occurring before 1 January 2004.

## ORGANISATIONAL STRUCTURE

The Committee is, under Section 3 of the Act, one of four regulatory authorities in this State. The others are the Board, the Supreme Court and the SAT.

Its accommodation is provided by the Government but it is otherwise funded by the Board.

Section 163 of the Act requires that its members consist of:

- (a) a Chairperson and not less than six other practitioners appointed by the Board from amongst its membership; and
- (b) not less than two other persons as representatives of the community, none of whom shall be a person who is or has been a practitioner. Community representatives are appointed by the Attorney General after consultation with the Minister responsible for consumer affairs.

Mr C L Zelestis QC and Mr K J Martin QC continued as the Chairperson and Deputy Chairperson of the Committee respectively.

Other practitioners who were members of the Committee were:

Mr K R Wilson SC, Mr E M Corboy SC, Mr S D Hall SC, Mr J G M Fiocco (from 6 September 2006), Mr J R B Ley, Mr J G Syminton, Ms F B Walter, Mr B K Davies (until 9 May 2007), Ms R J Lee (until 19 April 2007), Ms C H Thompson (from 9 May 2007), Ms A M van Onselen (from 18 May 2007) and Ms S M Schlink.

The community representatives were Ms J Dudley and Ms L Anderson (from 9 October 2006). The deputy community representatives were Ms G J Walker and Mr J Hunter.

The community representatives may report independently to the Attorney General on any aspect of a complaint or other conduct enquiry or the rules, the activities of the Law Complaints Officer or the Committee. At least one community representative must be present at each Committee meeting in order to constitute a quorum.

The Committee sits as two divisions in order to share the workload. Each division meets monthly to consider complaints and other enquiries into conduct that are referred to it.

Section 167 of the Act establishes an office of Law Complaints Officer. It provides that the Board must appoint to the office of Law Complaints Officer a legal practitioner with experience in the conduct of a legal practice. The Law Complaints Officer may, subject to the directions of the Committee, exercise the functions of the Committee, other than the exercise of its summary professional disciplinary jurisdiction. The Law Complaints Officer reports to the Committee on professional matters, and to the Committee and Board on administrative matters. Ms Diane Howell is the Law Complaints Officer.

## STAFF

The Law Complaints Officer was assisted by several practitioners employed by the Board. The full time practitioners were Ms C F M Coombs, Mr D Peterson, Ms B Chandran, Ms P E Le Miere, Mr M Evans and Mr R Quilliam (both from November 2006). Part time practitioners were Ms K L Whitney, Ms G L Roberts, Ms R Tapper, Ms K Williams, Mr P R Jordan, Ms A L Perkins and Mr G M Jordan (from September 2006). Seven support staff were also employed in the Law Complaints Officer's office. The Board's Senior Trust Account Inspector is also based at the Committee's office and performs work for each of the Committee and the Board.

All staff are encouraged to attend courses and undergo training in order to improve work skills and professional knowledge.

## MEETINGS

Throughout the period under review the Committee met on 26 occasions.

## SIGNIFICANT ISSUES AND DEVELOPMENTS

### *Data Systems*

It has been reported previously that there is an urgent need for an integrated electronic complaints data system, to allow easy access to data for schedules and ad hoc reports, to assist in educational strategies and to better track complaint files. The Board has taken steps in this regard to upgrade the Board and the Committee's electronic systems and it is hoped that this will be implemented in the Committee's office during the year commencing July 2008.

### *Backlog of disciplinary proceedings*

The backlog of current disciplinary proceedings has been substantially reduced during the last 30 months.

Up to 31 December 2004 disciplinary applications were heard by the Legal Practitioners Disciplinary Tribunal ("the LPDT"). On 1 January 2005 this function was taken over by the

newly created State Administrative Tribunal ("SAT") and some 61 unconcluded matters were transferred to the SAT by the LPDT (including 10 which had been held in abeyance pending the outcome of a Report to the Full Court on other matters). During the six months to 30 June 2005 the Committee filed a further 27 Applications directly with the SAT. As at 30 June 2005 there were 77 Applications still on foot, including the 10 referred to.

Between 1 July 2005 and 30 June 2006 the Committee filed 38 Applications with the SAT. By 30 June 2006 the number of outstanding Applications had been reduced to 49, comprising 18 matters transferred from the LPDT to the SAT (including 11 which had been held in abeyance pending the outcome of a Report to the Full Court on other matters) and 31 outstanding Applications filed directly in the SAT.

Between 1 July 2006 and 30 June 2007 the Committee filed 27 Applications in the SAT. As at 30 June 2007 there were only 15 Applications which had not been determined, of which 13 had been filed directly in the SAT and 2 comprised matters transferred by the LPDT and held pending a Report to the Full Court on other matters.

### *Legal Profession Bill 2007*

A National Model Bill was developed by the Federal Attorney General's Department and the legal profession with the aim of similar legislation governing the legal profession being introduced into each State. This requires each State to enact legislation in similar terms to the National Model Bill. To date, each State, other than Western Australia and South Australia, has such legislation in place, although the precise terms of the legislation varies from State to State.

In March this year the Committee made extensive submissions on the draft WA Legal Profession Bill 2007.

The WA Legal Profession Bill 2007 has now been introduced into Parliament and is expected to come into effect next year.

The Legal Practice Act 2003 introduced some legislation based on the model laws, for example, incorporated legal practices and multi disciplinary practices. The Legal Profession Bill 2007 completes this process.

For the first time the benchmark for assessing the conduct of legal practitioners will be that in the National Model Bill, namely "*unsatisfactory professional conduct*" and "*professional misconduct*". There are also procedural changes to the complaints handling process. The Bill will significantly impact on the work of the Committee.

## **D. The Complaints**

### **INFORMAL ENQUIRIES OR COMPLAINTS**

During the period under review the Law Complaints Officer's staff received several complaints or enquiries each day by telephone or in person. Many callers telephoned on



more than one occasion to discuss an ongoing matter of concern. Some were simply requests for information on how to make a complaint and how complaints are investigated. It was possible to resolve several conduct concerns informally.

In those cases where the enquiry or complaint involved a possible conduct concern, or was not a matter that could be resolved by telephone, the caller was invited to make a written complaint or to make an appointment to see the Law Complaints Officer's staff to further discuss the matter.

## WRITTEN COMPLAINTS

### i) The number of complaints

The Committee received a total of 440 written complaints, compared to 502 received last year.

In addition, the Law Complaints Officer or the Committee itself initiated an enquiry into 66 matters in the absence of a complaint being received, compared to 43 such enquiries in the last reporting period. For the purpose of this report, these enquiries have been categorised as complaints by the Committee.

### ii) The Complainants

Clients or former clients of practitioners formed the largest group of complainants.

Complaints were received from the following:

Source of complaints	
Client or former client	260
Other party to proceedings	94
Legal practitioner	33
Judiciary	1
Legal Practice Board	16
Law Society	1
Other	35
Committee enquiry	66
<b>Total</b>	<b>506</b>

### iii) The types of complaints

Approximately 67% were complaints of unprofessional conduct, 16% were complaints of neglect and/or undue delay, 7% were complaints of incompetence or lack of diligence, 2% were complaints of illegal conduct and 5% were complaints of a contravention of the Act.

Many complaints raised more than one conduct issue.

A few complaints involved more than one area of law. As was the case in previous years, family law attracted the most complaints, followed by civil litigation.

The areas of law in which the complaints arose were as follows:

Areas of law	
Commercial/Company law	18
Probate/Wills/Inheritance Act	54
Professional negligence	3
Leases/Mortgages/Franchises	8
Conveyancing	25
Criminal law	46
Employment/Industrial law	5
Immigration	1
Family/Defacto law	116
Personal injuries	51
Workers Compensation	24
Civil Litigation	108
Conduct in respect of legal practice	34
Native Title	3
Other	17

In addition, 15 complaints were in respect of the conduct of legal practitioners outside legal practice.

The main areas of complaint were:

Areas of complaint		Areas of complaint	
Inadequate estimate of costs	16	Improperly terminating retainer	10
Overcharging/wrongful charging	102	Discourtesy	37
No costs disclosure	15	Disclosure of confidential information	18
Transfer costs from trust funds without authority	9	Communicating with a client of another solicitor	4
Claiming costs in letter of demand	3	Improper communication with witness	3
Failing/delay to account for moneys	17	Personal interest undisclosed	1
Failure/delay to provide detailed account	10	Undue pressure to settle	7
Failure/Delay tax costs	8	Incompetence	23
Failing to pay third party	6	Incompetence during trial	14
No client advice	21	Failing to comply with court directions	6
Other costs complaint	20	Failing to appear in court	2
Failure to carry out instructions	45	Complaint against child representative	1
Act without/contrary to instructions	29	Conflict of interest	29
Failure to communicate/inform on progress	50	Advertising	2
Failure to transfer documents/file	11	Practising without certificate/suspended	19
Failing to respond adequately to LPB/LPCC	4	Conduct as employer – lack of supervision	1
Loss of documents	5	Other breach of LPB Act/Rules/Regulations	8
Not complying with undertaking	4	Irregularities in trust account dealings	16
Misleading client or court	62	Criminal conviction	4
Misleading other practitioner	7	Neglect	44
Misleading other party	35	Delay	62
Alleging fraud	4	Negligence	37

Areas of complaint		Areas of complaint	
Allowing client to make false statement in document	1	Attempting to fetter disciplinary function/threat to make complaint	1
False statement in document by practitioner	13	Defalcation	1
Making threatening demands	27	Threatening/bullying behaviour	37
Other breach of Act	8	Sexual relationship with client	2
Failing to pay tax/lodge return	3	Public statements	1
Failing to disclose information to other party	3	Other illegal behaviour	3
Inadequate notice to witness	1	Other	23
		<b>TOTAL</b>	<b>955</b>

The above shows that the areas of complaint attracting most complaints were costs; misleading conduct; neglect; delay; discourtesy; failure to communicate or inform on progress; failure to carry out instructions; discourtesy; conflict of interest; threatening or bullying behaviour; and negligence.

#### iv) The Practitioners

##### Type of employment

Sole practitioners continue to be the largest category of practitioners complained of. Principals of sole practitioner firms received 35% of complaints.

Practitioners complained of by employment status	
Barrister	22
Employee in sole practitioners firm	17
Principal in sole practitioners firm	178
Employee in 2 partner firm	14
Partner in 2 partner firm	19
Employee in 3 to 10 partner firm	15
Partner in 3 to 10 partner firm	47
Employee in more than 10 partner firm	9
Partner in more than 10 partner firm	12
Employee other organisation	43
Consultant	7
Not practising	21
Struck off/suspended/deceased	4
Firm only	7
Not named/not known	8
Practitioner in incorporated practice	82
Interstate practitioner	1
<b>TOTAL</b>	<b>506</b>

### Area of practice

An analysis of practitioners complained of by location of practice is as follows:

<b>Area of practice</b>	
CBD/West Perth	276
Suburbs	165
Country	43
Interstate/Overseas	1
Not named/Not known	21
<b>Total</b>	<b>506</b>

### Years in practice and age

The largest number of complaints or conduct enquiries were in respect of practitioners aged between 45 – 49, followed by those aged between 50 - 54.

<b>Complaints by age of solicitor</b>	
25 – 29	22
30 – 34	37
35 – 39	67
40 – 44	51
45 – 49	102
50 – 54	95
55 – 59	50
60 – 64	48
65 – 69	11
70 – 75	1
76 – 80	2
Not known/Not applicable	20
<b>Total</b>	<b>506</b>

An analysis of the number of complaints received by reference to the years in practice, in Western Australia, of the practitioner is as follows.

<b>Complaints by years in practice</b>	
Under 4	71
5 – 9	66
10 – 14	78
15 – 19	67
20 – 24	57
25 – 29	95
30 – 34	30
35 – 39	12
Over 40	6
Not known/Not applicable	24
<b>Total</b>	<b>506</b>

### The number of practitioners complained of

Some 349 practitioners were the subject of one or more written complaints during the period under review, compared to 398 in the last reporting period. Of this total, 263 practitioners were the subject of one complaint, (303 in the previous year), 61 practitioners were the subject of two complaints (62 in the previous year) and 25 practitioners were the subject of three or more complaints (33 in the previous year).

The Board has reported that there were 4230 certificated or deemed certificated practitioners practising in WA during the reporting period. A table of the composition of this figure is at the end of this report. However, this figure does not include those interstate based practitioners practising in this State who are no longer required to take out a practice certificate in WA by reason of holding a home jurisdiction practice certificate.

## **E. The investigation of complaints**

### THE INVESTIGATION PROCESS

The complaint is normally sent to the practitioner who is asked to provide a written answer to the complainant's allegations. Practitioners have a professional responsibility to respond to the enquiries of the Committee and a failure to do so may result in disciplinary proceedings being commenced by the Committee against the practitioner.

The Committee's policy is to send a copy of the practitioner's answer to the complainant for further comment before the matter is considered by the Committee unless there are special reasons why this should not occur.

Sometimes the Committee will need to obtain further information from the client or the practitioner concerned. In some cases it needs to examine the practitioner's file or to check court or other office records relevant to the complaint. On occasions enquiry will be made of a third party who may have information relevant to the complaint.

Pursuant to Section 198(1) of the Act the Committee and the Law Complaints Officer can summons a person to give evidence on oath; provide written information verified by statutory declaration; produce records; require a practitioner or firm of practitioners (or incorporated legal practice or multidisciplinary partnership) to allow the Law Complaints Officer or other nominated person to visit a legal practice and examine records including files and trust account records; make enquiry of practitioners' auditors and take possession of documents. The Act provides a penalty of \$5,000 for failing to comply with a requirement under Section 198(1).

Section 201 allows the Committee to require a practitioner to disclose to the Committee privileged information. This section also provides that privilege is not waived by providing the information when so required, and the information cannot be used in any other proceedings or be reported.

## WRITTEN COMPLAINTS RESOLVED

In some cases, the answer of the practitioner to the complaint resolved the matter for the complainant.

In a number of other cases the Law Complaints Officer's staff were able to conciliate the matter, by discussion with the parties or by facilitating communications between the practitioner and the complainant client. For example:

- A daughter complained on behalf her mother who was distressed at the practitioner's delay in finalising a deceased estate. The client wanted to pay the bill and collect her documents. However, there had been no reply from the lawyer to their requests to make arrangements for the payment of costs. The client wanted to pay the costs in a manner different from the authority for payment out of trust which the practitioner had asked the client to sign. The practitioner responded to a letter from the Committee. The complainant and her mother were then able to make arrangements with the practitioner to attend his office, to hand over the mother's cheque and to receive his cheque for the funds in trust and the client's file. The practitioner had been suffering from ill health and resigned not long afterwards. This was a simple matter of a breakdown in communication.
- A complaint was made that a practitioner had included in his account charges for work done after the complainant had terminated her instructions. The complainant offered to pay only for the work she considered was done before she terminated the retainer and the practitioner agreed to this proposal.
- A complainant who had sought advice on splitting his and his wife's superannuation complained that he was not advised that it could be done by Family Court orders and that this was a cheaper option than an agreement. The practitioner's file note indicated that the complainant had been told that it could be done by orders, but this had not been put in writing and the legal costs of each option had not been discussed. The account was resolved on the basis of a reduced amount.

## COMPLAINTS CONSIDERED BY THE COMMITTEE

Complaints not conciliated, or which indicated a possible breach of the Act or the old Act (as applicable), were, after investigation by the Law Complaints Officer's staff, referred to the Committee for consideration which dealt with them in one of the following ways.

The Committee considered 346 complaints and other conduct enquiries during the period under review, some of which had been received during the period under review and others received previously. Of these complaints, 46 complaints had earlier initially been considered by the Committee and deferred for further investigation or advice, or pending the conclusion of civil litigation in respect of the same matter, or pending taxation of an account.

i) Applications to the SAT

Where the Committee determines that a conduct matter should be referred to the SAT it resolves to issue a document called an Application against the practitioner concerned. That Application gives particulars of the unprofessional conduct, illegal conduct or neglect or undue delay under the old Act, or unsatisfactory conduct under the Act, as the case may be, that is alleged against the practitioner. The Committee acts as the prosecutor when Applications are heard by the SAT and is required to prove the conduct matters alleged.

In respect of 23 complaints considered by it, the Committee resolved to issue a total of 29 Applications in respect of a total of 17 practitioners.

In respect of a further 16 matters considered by it, the Committee determined that an Application should issue against a practitioner but it had not been settled and approved by the Committee before the end of the period under review.

ii) Summary Professional Disciplinary Jurisdiction

Pursuant to Section 28A of the old Act and Section 177 of the Act the Committee has jurisdiction, with the consent of the practitioner concerned, to make a finding that a practitioner has been guilty of illegal conduct, unprofessional conduct or neglect or undue delay in the course of the practice of the law (under the old Act) or unsatisfactory conduct (under the Act), rather than issue an Application. Generally speaking, the Committee moves to exercise its own summary jurisdiction in cases of a lesser degree of seriousness.

It can order the practitioner to pay a fine not exceeding \$2,500 (\$500 under the old Act); reprimand the practitioner; order that the practitioner seek and implement advice in relation to the management and conduct of a legal practice; order that the practitioner reduce or refund any fees or disbursements or order that the practitioner pay part or all of the costs incurred or expenses (under the old Act) by either or both the complainant or the Committee in relation to the inquiry.

Adverse findings of the Committee form part of the practitioner's disciplinary record.

The Committee exercised its summary professional disciplinary jurisdiction in respect of 14 complaints considered by it. These were as follows:

- A practitioner was found guilty of unsatisfactory conduct by unprofessional conduct by writing to a fellow practitioner coupling a demand that the practitioner waive his fees charged to a former client with a threat to make a complaint to the Board if he did not do so. The penalty imposed was a fine of \$1,000. The Committee also resolved to publish an article reminding practitioners that making improper threats may amount to unsatisfactory conduct.
- A practitioner was found guilty of unsatisfactory conduct by unprofessional conduct in charging fees without a proper basis for doing so. The practitioner had accepted a retainer from the complainants for settlement of a purchase yet to arise under an

option to purchase a lease. He was not retained except for settlement of the purchase. When the practitioner terminated the retainer in circumstances of a conflict of interest the option to purchase had not been exercised and the retainer had therefore not commenced. The practitioner billed the complainants for work he had done without a retainer. When the complainants asked for an itemised account this was provided in an increased amount. The practitioner was fined \$750 and ordered to refund to the complainants the costs they had paid to him in respect of the matter.

- A practitioner was found guilty of unsatisfactory conduct by undue delay over an 18 month period in the conduct of family law proceedings on behalf of a client Ms D. The practitioner was fined \$1,500. The practitioner was also found guilty of unsatisfactory conduct by unprofessional conduct over an eleven month period by failing to respond to a request for documents and information from the Committee within the time requested or a reasonable time. The practitioner was fined a further \$1,500 on this matter.
- A practitioner was found guilty of unsatisfactory conduct by a contravention of Sections 35 and 123 of the Act by engaging in legal practice when uncertificated for four months. The practitioner was reprimanded.
- A practitioner was found guilty of unprofessional conduct in that he permitted his client to lend him a sum of money without, in accordance with the relevant Professional Conduct Rule at the time, the client acknowledging in writing prior to the advance that he had been advised by the practitioner that it is desirable that he should obtain independent legal advice concerning the transaction; that the loan was a personal loan with or without security and that in the event of a default the client's remedy is against the borrower and he may have no recourse with the Solicitor's Guarantee Fund. The practitioner had repaid the loan plus interest. The practitioner was reprimanded.
- A practitioner was found not guilty of unsatisfactory conduct in respect of writing directly to two legal practitioners, who were senior Government employees, concerning a matter in which the Government was represented by another legal practitioner.
- A practitioner was found guilty of unsatisfactory conduct by unprofessional conduct in maintaining a claim for fees from a former client in circumstances where he was unable to continue to represent that client due to a conflict of interest with another client, which conflict could have been identified at the time the file was opened. The penalty imposed was a reprimand.
- A practitioner was found guilty of unsatisfactory conduct by a contravention of Sections 35 and 123 of the Act by practising law when uncertificated over a seven month period. The practitioner was fined \$1,000.
- A practitioner was found guilty of unsatisfactory conduct by neglect or undue delay in the course of legal practice when acting on instructions received from a client to prepare a contract for the sale of a business. The practitioner was reprimanded.



- A practitioner was found guilty of unsatisfactory conduct by unprofessional conduct by, in respect of client A, taking action in relation to a client's court action after the client had terminated his instructions; delay in providing an itemised account; threatening legal action to recover costs in reliance on a lump sum account whilst knowing that the client had requested an itemised account and writing to the client in discourteous terms. The practitioner was reprimanded and ordered to refund to the client legal costs in the sum of \$1,478.
- A practitioner was found guilty of unprofessional conduct in failing to advise his clients that an arbitration in which his clients were a party had been set down for hearing and failing to advise the clients of the hearing date. The practitioner was reprimanded.
- A practitioner was found guilty of unprofessional conduct by misleading the court by filing documents in proceedings which wrongly inferred that she acted for the plaintiff in the proceedings. The practitioner was reprimanded.
- A practitioner was found not guilty of unsatisfactory conduct by failing to provide adequate disclosure as to costs over a four month period.
- A practitioner was found guilty of unsatisfactory conduct by unprofessional conduct in causing a letter to be sent to his firm's client Ms F, stating that his firm would cease acting, and threatening to withhold the firm's services at two trials, unless a payment into trust on account of legal costs was made or the firm was the recipient of a grant of Legal Aid. The practitioner knew or ought to have known that the retainer which then existed between Ms F and his firm, in respect of each of two traffic matters, was in the nature of an entire contract, under which no immediate right to require payment of his legal costs existed prior to the matters going to trial. The practitioner was reprimanded.

In a further 17 matters the Committee resolved to exercise its summary jurisdiction in respect of a complaint or conduct enquiry but the matter had not concluded during the period under review.

iii) Determinations not to refer to the SAT or deal with summarily

In respect of 144 complaints referred to it, the Committee decided to neither refer the matter of complaint to the SAT nor deal with it summarily. Section 181(1) of the Act provides that if the Committee decides to neither refer the matter of complaint to the SAT nor exercise its summary jurisdiction in respect of the matter, it must cause the Law Complaints Officer to advise the complainant and the practitioner concerned of that decision and provide particulars of its reasons for that decision.

In a further 60 cases, the Committee determined that there had been no apparent breach of the Act by the practitioner complained of, but it cautioned the practitioner about an aspect of his/her conduct or made a recommendation to the practitioner in respect of an aspect of the complaint. The Committee does so with a view to raising professional standards and preventing such conduct by the practitioner in the future. For example:

- A complainant complained of an account for legal fees rendered to her by a practitioner in circumstances where she was advised that the first consultation was free and she was not sent an invoice until 14 months after her last correspondence to the practitioner. There was some conflict in facts. The Committee asked the practitioner if he would be prepared to waive his account. He agreed to do so. The Committee resolved to take the matter no further but cautioned the practitioner that it would view with concern any like complaint in the future. It also sent to the Law Society for publication in its Brief Magazine an article reminding practitioners that when they advertise the provision of free advice they should ensure that any terms and/or conditions attaching to the advertised offer are written in clear terms, thereby not open to misinterpretation by members of the general public.
- The Committee considered a complaint that a practitioner, acting for the defendant in District Court proceedings, failed to disclose a discoverable document. The Committee, after enquiry, found no evidence of a deliberate intention to withhold evidence when he did not disclose the document. It resolved to advise the practitioner that his error in not disclosing the document, although not calculated to deceive and therefore warranting taking the matter further, was a serious error in judgment. He was reminded of his ongoing discovery obligations and advised that extreme care needs to be taken in dealing with lay clients.
- A complainant had made an application for a violence restraining order against a practitioner's client. At the time the complainant was subject to bail provisions protective of the practitioner's client. The complainant said that on the day of the hearing of the application the practitioner had threatened him that he was in breach of his bail conditions and should withdraw the application. The practitioner denied that he had threatened the complainant. The Committee advised the practitioner of its concern that statements made by the practitioner to the complainant could be construed as threatening, that his approach to the complainant was inappropriate, especially given that the complainant was unrepresented, and the matter would have been better raised before the court. However, the Committee was not satisfied that the practitioner intended to threaten or intimidate the complainant into withdrawing his application and therefore took the view that there was not sufficient evidence to warrant taking the matter further.
- The Committee considered various complaints made against a practitioner who acted for the complainant's former wife in Family Court proceedings. The complainant alleged delay and failing to respond in respect of the execution by the wife of consent orders. The Committee noted that, strictly speaking, the practitioner was not under a professional obligation to respond to the complainant's correspondence as there was no solicitor/client relationship between them. However, the practitioner was advised that it is appropriate professional practice to do so in circumstances such as these and he did not assist his client who then became the subject of a Family Court listing. The practitioner was cautioned that the delay of about four months in returning the consent orders did not assist his client and the matter should have been dealt with on a more timely basis.
- A complaint was made that a practitioner engaged a barrister to provide an opinion to the client without the client's knowledge or agreement, then sought to recover the barrister's fees from the client. The Committee noted that the practitioner had accepted part of the barrister's fees from the client, and suggested to the

practitioner that it would be appropriate to return those fees. He agreed to do so and the Committee resolved not to take the matter further. It resolved to publish an article in Brief Magazine reminding practitioners of the need to obtain the client's prior and informed permission for the briefing of counsel.

- A complainant, the de facto wife of Mr B, was requested by a practitioner acting for Mrs B to produce documents pursuant to a subpoena with respect to Family Court proceedings between Mr B and Mrs B. On the first day of the hearing the practitioner was given the complainant's subpoenaed documents which were then examined by Ms D, who was an accountant and Mrs B's sister, in full view of the complainant, who complained of unsatisfactory conduct in improperly disclosing the documents to a third party. It appeared to the Committee that the practitioner did not have the court's permission to remove the documents outside the courtroom and to allow a third party to inspect the documents. If the practitioner had sought the court's permission for Ms D to inspect the documents it is likely that permission would have been granted. The practitioner was cautioned that he should ensure that in future he seeks the court's permission prior to having subpoenaed documents inspected by a third party, and that if he instructs an expert to inspect the documents, that person should have no connection to the parties.

Some 67 complaints considered by the Committee during the period under review were deferred for further investigation or advice, or pending the outcome of taxation or related litigation. A further 5 matters considered by the Committee were only for determination on procedural matters ancillary to the complaint.

#### iv) Outstanding complaints

At the commencement of the period under review the Committee and the Law Complaints Officer and her staff had approximately 465 complaints undetermined and still under investigation or deferred pending the outcome of related litigation. During the period 440 new complaints were received and enquired into. At the end of the period 458 complaints remained undetermined and still under investigation or deferred pending the outcome of related litigation. The result is that over the whole of the period under review a total of 447 complaints were finalised upon the conclusion of investigations and, if appropriate, a final determination of the complaint by the Committee. In addition, 78 conduct enquiries of the Committee had not concluded during the period under review.

These statistics include previously closed files which were reopened upon further information being received after the matter was concluded.

## **Tribunal and Court Proceedings**

### **THE STATE ADMINISTRATIVE TRIBUNAL (SAT)**

On 1 January 2005 the SAT took over the functions of the Legal Practitioners Disciplinary Tribunal (LPDT). Schedule A at the end of this Report lists those matters transferred by the LPDT to the SAT which were concluded during the period under review. There were

16 such matters, including 9 withdrawn by the Committee because the practitioner had been struck from the roll on other matters.

During the period under review the Committee filed with the SAT registry some 27 Applications against 16 practitioners.

Schedule C lists Applications filed in the SAT registry by the Committee which were determined during the period under review. There were 45 such Applications, including 3 withdrawn by the Committee before being heard and 9 Applications in respect of 1 practitioner being withdrawn then dismissed.

At the end of the reporting period there were 13 Applications filed by the Committee in the SAT registry which had not been determined. Some of these have, of course, since been determined.

No problems have emerged from the operations of the SAT which is dealing with the Applications expeditiously.

Section 17 of the Act requires that the Board provide information in respect of proceedings instituted in the SAT in its Annual Report and requires that the Law Complaints officer provide information to the Board as requested. It is the Committee and not the Board which initiates proceedings against practitioners in respect of conduct matters pursuant to Sections 180 and 198 of the Act. The Board can itself initiate proceedings, of a different kind, under other sections of the Act, for example, Section 39(3) which provides that the Board can apply to SAT for a determination that a practitioner's practice certificate be suspended or cancelled. The Committee and the Board have agreed on a protocol which provides that each body is to inform the other as soon as possible of the filing of Applications in the SAT.

The disciplinary findings summarized in the attached schedules are not detailed in this report as the SAT decisions are published in full on its website to inform the public and the legal profession.

## REPORTS TO THE FULL COURT

If a disciplinary matter is found proved, the SAT can decline to itself impose a penalty (the maximum penalty available to it is a two year period of suspension from practice) and instead transmit a Report to the Full Court. The Full Court can strike the practitioner off the roll of practitioners, suspend the practitioner from practice for any period and make any order available to the SAT.

The SAT resolved to make a Report to the Full Court in respect of the following practitioners during the reporting period: Alan James Camp and Colin Robert McKerlie.

Practitioners struck from the roll during the period under review were: Vijitha Gamini De Alwis, Colin Robert McKerlie, Michael Murray Tomlinson, Clarence James Stevens, Rohan George Skea, Sze Ming Lim and Janet Walton. The Committee was the applicant in each of the proceedings.

The following practitioners remained, during the period under review, the subject of Reports to the Full Court which had not been determined: Robert James Lashansky, David Ernest Eley, Andrew Cecil Thorpe, Patricia May Verscheur Edward and Alan James Camp. Mr Lashansky and Mr Eley were subsequently struck from the roll. The report in respect of Ms Edward was subsequently heard and the Full Bench decided not to make any order on the Application, other than to continue an order made by the SAT for the supervision of the practitioner's trust account.

## APPEALS

Appeals by Andrew Cecil Thorpe and Patricia May Verscheur Edward respectively, filed during previous reporting periods, were heard and dismissed during the period under review. An appeal by Paul John O'Halloran from findings of unprofessional conduct by the State Administrative Tribunal, constituted of members of the former Legal Practitioners Disciplinary Tribunal which had been dealing with the matter at the time the State Administrative Tribunal was established, was allowed by consent.

Appeals filed by Stephen John Browne and Alan James Camp respectively were not heard during the period under review.

## H. Information Statements

### FREEDOM OF INFORMATION ACT

Pursuant to Part 5 of the Freedom of Information Act 1992 the Committee is required to publish an Information Statement. The Attorney General has approved, in accordance with Section 96(1) of the said Act, publication of the statement by incorporation in an annual report. Accordingly the Information Statement of the Committee is at the end of this report. It has been prepared in accordance with the requirements of Section 94 of the said Act.

### PUBLIC INTEREST DISCLOSURE

In accordance with the Public Interest Disclosure Act 2003 the Committee has appointed a Public Interest Disclosure Officer.

## SCHEDULE A

### SUMMARY OF MATTERS DETERMINED BY THE SAT PREVIOUSLY TRANSFERRED FROM THE LPDT

1.7.06 TO 30.6.07

\* other than directions hearings

APP NO. (LPDT NO.)	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
1/02 (37A-37D/02) 2/02 (36/02) 10/03 (5A-5B/03) 11/03 (1A-1B/03)	4.10.06	DE ALWIS, Vijitha Gamini		Withdrawn. (9 matters) Practitioner earlier struck from roll on other matters.
8/03 (22A/03)	20.7.06 & 21.7.06 1.2.07	CAMP, Alan James	Unprofessional conduct by breaking into desk of employer.	Proved. Report to Full Court. Costs \$20,000 on all.
8/03 (22C/03)	20.7.06, 21.7.06 & 1.2.07	CAMP, Alan James	Unprofessional conduct by offering to divulge to media for a fee information relating to his client.	Proved. Report to Full Court. Costs \$20,000 on all.
8/03 (22D/03)	20.7.06, 21.7.06 & 1.2.07	CAMP, Alan James	Unprofessional conduct by providing to media a chronology relating to proceedings in the Coroners Court.	Proved. Report to Full Court. Costs \$20,000 on all.
8/03 (22B/03)	20.7.06, 21.7.06 & 1.2.07	CAMP, Alan James		Withdrawn.
13/04 (21/04)	15.2.06, 16.2.06 & 18.4.06 Decision delivered 3.7.06	LACERENZA, Giuseppe Antonio		Dismissed.
24/04 (23/04)	26.11.04 Then determined on the documents	McKERRIE, Colin Robert	Illegal conduct by reason of sexual offences.	Proved. Report to Full Court. Suspension. Costs \$500.

APP NO. (LPDT NO.)	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
26/04 (12B/04)	23.10.06 & 14.11.06	REYBURN, John Henry		Dismissed.

## SCHEDULE B

### SCHEDULE OF MATTERS TRANSFERRED FROM THE LPDT TO THE SAT WHICH NOT DETERMINED AS AT 30.6.07

\* deferred pending hearing of Report to Full Court on other matters

SAT APP NO.	LPDT NO.
* 22/04	17/04
* 27/04	10/04

## SCHEDULE C

### SUMMARY OF OTHER MATTERS DETERMINED BY THE SAT 1.7.06 TO 30.6.07

\* other than directions hearings

APP NO.	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
241-248/05 250/05	12.9.06 & 20.10.06	GANDINI , Leonard		Dismissed.
314/05	3.4.06, 23.6.06, 9.8.06	PILLAY, Naveen Chandra	Unprofessional conduct by not lodging income tax returns.	Proved. Suspended from practice 1.1.07- 31.12.07. Costs.
315/05	3.4.06, 23.6.06, 9.8.06	PILLAY, Naveen Chandra	Unprofessional conduct by failing to discharge his legal or civil obligations to pay income tax.	Proved. Suspended from practice 1.1.07 – 31.12.07. Costs.
316/05	21.3.07 22.3.07	CHANG, Christina Maria	Unprofessional conduct by deposit of client trust funds into personal account.	Proved. Fine \$6,000. Reprimand. Costs \$25,000.

APP NO.	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
382/05	8.3.06 & 24.8.06	RICHARDSON, Barry Michael	Unprofessional conduct by transferring funds from trust account without serving a bill of costs.	Proved. Fine \$3,000. Pay client \$1,040. Costs \$2904.
383/05	8.3.06 & 24.8.06	RICHARDSON, Barry Michael	Unprofessional conduct by failing to respond to requests for documents and information from the Committee.	Proved. Suspended from practice for 1 year from 24.8.06.
393/05	2.5.06 & 26.7.06	BROWNE, Stephen John	Unprofessional conduct by misleading words in advertisement.	Proved. Fine \$1,000. Reprimand. Costs \$2,500.
15/06	19.4.06 Decision delivered 11.7.06	GILES, Jeremy Christopher		Dismissed.
16/06	25.9.06, 26.9.06 & 7.12.06	FLEMING, David George	Unprofessional conduct by misleading communications to another practitioner.	Proved. Fine \$7,500. Costs \$25,224.
54/06	29.8.06	HOFMANN, Robert Curt Mansfield	Unprofessional conduct by obtaining fees in breach of Legal Aid Commission Act and failing to pay the funds into his trust account.	Proved. Fines totalling \$5,000. Costs \$9,000 on all.
55/06	29.8.06	HOFMANN, Robert Curt Mansfield	Unprofessional conduct by recklessness in writing to the Committee which led to a misleading of the Committee.	Proved. Fine \$4,000. Costs \$9,000 on all.
68/06				Withdrawn. Order suppressing publication of name.



APP NO.	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
84/06		WALTON, Janet		Withdrawn. (Struck from roll on other matters).
85/06		WALTON, Janet		Withdrawn. (Struck from roll on other matters).
105/06	9.8.06	LEASK, David Charles	Unprofessional conduct by failing to reply adequately to the Committee's enquiries.	Proved. Fine \$1,500. Costs \$500.
106/06	9.8.06	LEASK, David Charles	Neglect or undue delay in failing to progress a client matter and unprofessional conduct by misleading the client as to progress of the matter.	Proved. Fine \$7,000. Costs \$1,500.
107/06	9.2.07	GLENN, Joseph	Neglect in course of acting for client in criminal matter, lack of competence in a criminal appeal matter, unprofessional conduct by failing to respond adequately to Committee enquiries.	Proved. Suspension for 2 years from 9.2.07.
108/06	9.2.07	GLENN, Joseph	Unprofessional conduct by failing to inform clients of his intention to cease practice and failing to obtain instructions on disposition of files.	Proved. Suspension for 3 months concurrent with 2 year suspension above.

APP NO.	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
114/06	30.8.06 & 3.11.06	REDDING, Paul	Unprofessional conduct by conflict of interest and drawing funds from trust without prior consent of all of the beneficiaries of the funds.	Proved. Fine \$2,000. Costs \$3,000.
115/06	30.8.06 & 3.11.06	REDDING, Paul	Unprofessional conduct by conflict of interest.	Proved. Fine \$2,000. Costs \$3,000.
116/06	11.7.06 & 14.7.06	BACHMANN, Tricia Y		Interim suspension order pursuant to Section 182 pending enquiry and determination of conduct matters.
142/06	28.9.06	WENSLEY, Richard George	Unprofessional conduct by acting in a conflict of interest situation.	Proved. Fine \$3,000. Costs \$1,000.
143/06	28.9.06	WENSLEY, Richard George	Unprofessional conduct by acting in a conflict of interest situation.	Proved. Fine \$3,000. Costs \$1,000.
159/06	2.11.06	WARD, Peter John	Neglect or undue delay in conduct of client matter.	Proved. Suspension until fit. Costs \$4,500 on all.
160/06	2.11.06	WARD, Peter John	Neglect or undue delay in conduct of client matter.	Proved. Suspension until fit. Costs \$4,500 on all.
174/06	2.11.06	WARD, Peter John	Unprofessional conduct in relation to maintenance of trust account.	Proved. Suspension until fit. Fine \$2,000 on 174/06 & 175/06. Costs \$4,500 on all.
175/06	2.11.06	WARD, Peter John	Unprofessional conduct by transferring funds from trust account without serving a bill of costs.	Proved. Suspension until fit. Fine \$2,000 on 174/06 & 175/06. Costs \$4,500 on all.

APP NO.	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
167/06	10.10.06	MARKS, Peter Beresford Moffit	a) Neglect or undue delay in conduct of client matter. b) Unprofessional conduct by failing to reply to Committee's enquiries.	Proved a) Fine \$3,000. Costs \$1,000. b) Fine \$1,000. Costs \$500.
169/06	17.11.06	JOHNSON, Julian Richard	Unprofessional conduct by deficiency in trust account.	Proved. Fine \$8,000. Costs \$1,500.
184/06	15.3.07	WIESE, Elizabeth	Unprofessional conduct by failing to deposit trust monies into trust account.	Proved. Fine \$3,000. Costs \$1,000.
185/06	15.3.07	WIESE, Elizabeth	Unprofessional conduct by transferring funds from trust without rendering an account.	Proved. Fine \$3,000. Costs \$1,000.
203/06	18.1.07	ATLAS, Hasan Ataman	Lack of competence and diligence in relation to preparation of appeal books in criminal appeal.	Proved. Reprimand. 2 year restriction on practice. Costs \$3,000.
39/07	14.5.07	GLUESTEIN, Brian Charles	Neglect in administration of deceased estate.	Proved. Fine \$6,000. Costs \$1,500.
40/07	14.5.07	GLUESTEIN, Brian Charles	Unprofessional conduct by failing to rectify in a timely manner a deficiency in trust monies.	Proved. Fine \$8,000. Costs \$1,500.
52/07	9.5.07	SORENSEN, Peter John	Unprofessional conduct or a contravention of Sections 35 and/or 123 of the Legal Practice Act by practising without a certificate.	Proved. Fine \$3,500. Costs \$1,500.

APP NO.	HEARING DATE *	PRACTITIONER	ALLEGATION	FINDING
78/07	25.6.07	BENNETT, Martin Lawrence	Neglect or undue delay in conduct of client matter.	Proved. Fine \$2,000. Compensation to client \$2,077. Costs \$1,500.
97/07	31.5.07	A practitioner		Interim suspension order pursuant to Section 182 pending enquiry and determination of conduct matters.

**FREEDOM OF INFORMATION ACT 1992 ("FOI ACT")  
INFORMATION STATEMENT  
LEGAL PRACTITIONERS COMPLAINTS COMMITTEE**

1. This information statement is prepared and published pursuant to the requirements of Part 5 of the FOI Act and relates to the Legal Practitioners Complaints Committee ("*Complaints Committee*").
2. The structure of the Complaints Committee is set out in Sections 162 and 163 of the Legal Practice Act 2003; the functions of the Complaints Committee are set out in Sections 164 and 175.
3. The functions of the Complaints Committee including, in particular, its decision making functions, do not affect members of the public; they affect legal practitioners on the one hand and those among the classes of persons set out in Section 175(2) from whom complaints are received on the other hand.
4. The policy of the Complaints Committee is set forth in Sections 163, 164 and 175; no arrangements exist to enable members of the public to participate in the formulation of its policy or in the performance of its functions other than the fact that representatives of the community are members of the Complaints Committee being appointed as such by the Attorney General.
5. The kinds of documents that are usually held by the Complaints Committee comprise firstly its complaint files containing correspondence, memoranda, and the like, and secondly documents related to meetings of the Complaints Committee, such as agendas, minutes, memoranda, and the like. The Complaints Committee also has a form of brochure which explains the nature and limits of its functions.

There is no written law other than the FOI Act whereunder any of these documents can be inspected.

There is no law or practice whereunder any of these documents can be purchased. Copies of the said brochure can be inspected or obtained from the Complaints Committee free of charge.

6. Copies of the said brochure are available at the offices of the Complaints Committee at 2nd Floor, 55 St Georges Terrace, Perth, to any person who calls at those offices or who otherwise contacts the Complaints Committee with an enquiry concerning the nature and limits of its functions.
7. Ms Catherine Coombs of 2nd Floor, 55 St Georges Terrace, Perth, Legal Practitioner is the officer to whom initial enquiries as to access to documents can be made and who has been generally directed to make decisions under the FOI Act; enquiries may be made by telephone (08) 9461 2299.
8. Access applications under the FOI Act can be made to the Complaints Committee by letter to Post Office Box Z5293, St Georges Terrace, Perth WA 6831 or by facsimile message at (08) 9461 2265.

9. The Complaints Committee has no procedures for amending under Part 3 of the FOI Act personal information in its documents. Any application for an amendment would be dealt with in accordance with Part 3.
10. None of its functions affect or are likely to affect rights, privileges or other benefits, or obligations, penalties or other detriments, to which members of the public are or may become entitled, eligible, liable or subject.
11. Applications for access should be in writing, give enough information so that the documents requested can be identified, give an Australian address to which notices can be sent, and be lodged as provided in paragraph 8 with a fee of \$30 (unless the application is one for personal information about the applicant only which may be made without fee); for financially disadvantaged applicants or those issued with prescribed pensioner concession cards that charge is reduced by 25%.
12. Applications will be acknowledged in writing and applicants will be notified of the decision as soon as practicable and in any case within 45 days. In the notice of decision applicants will be provided firstly with the date of its making, the name and designation of the officer making it, the reasons for classifying any particular document as exempt, and the fact that access is given to an edited document and secondly with information as to the right to review and the procedures to be followed to exercise that right.
13. Access to documents may be granted by way of inspection, copies of documents, a copy of an audio or video tape, a computer disk, a transcript of a recording, shorthand or encoded document from which words can be reproduced, or by agreement in other ways.
14. Applicants who are dissatisfied with the decision of any officer may apply for an internal review of the decision; the application should be made in writing within 30 days of receipt of the notice of decision.
15. Applicants will be notified of the result of an internal review within 15 days.
16. Applicants who are dissatisfied with the result of an internal review may apply to the Information Commissioner for an external review; details will be advised to applicants when the internal review decision is issued.

## COMPOSITION OF THE WA LEGAL PROFESSION AS AT 30 JUNE 2007

	Resident Females	Non-Resident Females	Resident Males	Non- Resident Males	Totals
Barristers	29	1	158	2	190
Commonwealth Government	23	1	24		48
Consultants	21		56		77
Director	27		182		209
Employees	930	41	769	59	1799
Equity Partner	45	1	317	9	372
Fixed Profit-share Partner	7		20		27
Inhouse	120	8	194	21	343
Locum					0
Not practising (certificated)	99	44	75	29	247
Salaried Partner	21	1	40	2	64
Sole Practitioners	98	1	350	8	457
Judiciary <sup>^</sup>	2		8		10
Deceased <sup>^</sup>			1		1
Struck Off /Suspended <sup>^</sup>	1		3		4
State Government*	34		21		55

<b>Practice Certificates ISSUED</b>	<b>1457</b>	<b>98</b>	<b>2218</b>	<b>130</b>	<b>3903</b>
-------------------------------------	-------------	-----------	-------------	------------	-------------

## S.36 Practitioners

** State Solicitor's Office	59		41		100
**Director of Public Prosecutions (State)	56		57		113
**Other Departments	103		66		169

## TOTAL PRACTITIONERS

1641	98	2361	130	4230
------	----	------	-----	------

<sup>^</sup> Held practice certificate during 2006-2007, however by 30 June 2007, were appointed judiciary/deceased/struck off/suspended.

\* State Government employees who held a practice certificate during 2006 – 2007.

\*\* State Government employees taken to be certificated pursuant to Section 36 of the Legal Practice Act 2003.